

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

SHANIKA CHRISTIAN,

Plaintiff

v.

Civil Action No.: 2:06-0543

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND
HUMAN RESOURCES,

Defendant

MEMORANDUM OPINION AND ORDER

This action was previously referred to Mary E. Stanley, United States Magistrate Judge, who submitted her proposed findings and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B). On July 19, 2006, plaintiff filed objections. Plaintiff submitted additional materials on August 1 and 2, 2006.

The court has reviewed the proposed findings and recommendation entered by the magistrate judge on July 11, 2006. The magistrate judge recommends dismissal of plaintiff's complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) inasmuch as "it is 'beyond doubt' that . . . [the] Complaint fails to allege facts entitling her to relief" (PF&R at 2). The

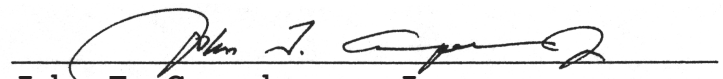
magistrate judge further recommends that plaintiff's application to proceed in forma pauperis be denied without prejudice.

As noted by the magistrate judge, assuming arguendo that plaintiff has alleged a constitutional claim, the limitations period attached to it has long since expired. Plaintiff's objections and supporting materials neither address nor overcome this obstacle to her claim. Accordingly, it is ORDERED that:

1. The proposed findings and recommendation be, and it hereby is, adopted by the court;
2. Plaintiff's application to proceed in forma pauperis be, and it hereby is, denied without prejudice; and
3. This case be, and it hereby is, dismissed without prejudice.

The Clerk is directed to forward copies of this order to the pro se plaintiff, all counsel of record, and the United States Magistrate Judge.

DATED: October 3, 2006


John T. Copenhaver, Jr.
United States District Judge